

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

GARDENBURE, LLC §
Plaintiff, §
v. § CIVIL ACTION NO. 6:21-cv-873
CENTURY SURETY COMPANY §
Defendant. §

**NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. § 1441(b) (DIVERSITY)**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Defendant Century Surety Company, (“Defendant”) and hereby petitions this Court pursuant to 28 U.S.C. §§ 1332, 1441(b), and 1446 for removal, on the basis of diversity of citizenship jurisdiction, to the United States District Court for the Western District of Texas, Waco Division, of the action numbered and styled Cause No. 2021-1780-4; *Gardenbure, LLC v. Century Surety Company*, in the 170th Judicial District Court of McLennan County, Texas (the “State Court case”), and in support thereof would respectfully show this Court as follows:

I. FACTS

1. Plaintiff filed its Original Petition (“Petition”) in the McLennan County District Court case on June 16, 2021. A true and correct copy of the Original Petition is attached hereto as part of Exhibit A. In its Original Petition, Plaintiff has asserted claims for benefits under Plaintiff’s UM/UIM policy of insurance with State Farm Mutual Automobile Ins. Co.

2. Plaintiff served Defendant through the Texas Department of Insurance with citation and a copy of its Petition in the State Court case on July 21, 2021. Defendant timely answered the suit on August 16, 2021. This Notice of Removal is filed within thirty (30) days of service of the

Petition, in compliance with 28 U.S.C. § 1446(b).

3. Plaintiff Gardenbure, LLC is a Texas LLC whose principal place of business is in Texas. The members of Gardenbure, LLC are all citizens of Texas.

4. Defendant Century Surety Company is domiciled in Ohio with its Principal Place of Business in Michigan. It is a wholly-owned subsidiary of Star Insurance Company, which in turn is wholly owned by AmeriTrust Group, Inc. Star and AmeriTrust Group Inc. are citizens of Michigan (domiciled and Principal Place of Business).

II. AMOUNT IN CONTROVERSY

5. Plaintiff is seeking damages in excess of \$200,000.00. *See* Petition attached as a part of Exhibit A, paragraph 4, wherein Plaintiff alleges monetary damages of over \$200,000.00.

III. COMPLETE DIVERSITY EXISTS

6. This action is a civil action which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. §§ 1441(b)(2) and 1332(a) in that it is between citizens of different states and it is a civil action wherein the matter in controversy exceeds the sum of \$75,000.00, exclusive of interests and costs.

IV. PROCEDURAL REQUIREMENTS

7. By virtue of filing this Notice of Removal, Defendant does not waive its right to assert any motions to dismiss, including Rule 12 motions permitted by the Federal Rules of Civil Procedure.

8. All of the papers on file in the State Court case at the time of removal are attached hereto as Exhibit A. Those papers include the citation, Plaintiff's Original Petition, and all answers on file.

9. Pursuant to 28 U.S.C. § 1446(d), written notice of filing of this Notice will be given

to all adverse parties promptly after the filing of this Notice.

10. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice will be filed with the District Clerk of McLennan County, Texas promptly after the filing of this Notice.

WHEREFORE, PREMISES CONSIDERED, Defendant Century Surety Company requests that this action be removed from the 170th Judicial District Court of McLennan County, Texas to the United States District Court for the Western District of Texas, Waco Division, and that this Court enter such further orders as may be necessary and appropriate.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANT
CENTURY SURETY COMPANY

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of August 2021, a true and correct copy of the above and foregoing document was served via electronic service on the following counsel of record:

Preston J. Dugas, III
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/s/ Eddie F. Kaye
Eddie F. Kaye